

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

Peter Tilton, Jr., Vice Chairman
Barbara Renaud, Treasurer
Sharon Raymond
Diane Shaw
Gordon Vinther
Pat Swank, Alternate
Anthony Ciolfi, Alternate

Also Present: Rayann Dionne – Conservation Coordinator
Mary Louise Woolsey, Board of Selectmen
Mark Olsen, Planning Board

I. CALL TO ORDER

The Meeting was called to order by Vice Chairman Peter Tilton, Jr. at 6:58 p.m. in the Town Hall Selectmen's Meeting Room.

II. REVIEW OF MINUTES

MOTION: It was moved by Ms. Shaw to approve the November 24, 2015 minutes with edits provided.

SECONDED: Mr. Vinther

FAVOR: 4 in favor, 2 abstained (Renaud, Vinther, Ciolfi), 0 opposed

MOTION PASSED

III. APPOINTMENTS

There were no appointments

IV. APPLICATIONS

1. Batchelder Pond

Town Wetlands Permit

Owner: Hampton School District

Agent: Jordan Causer – Eagle Scout Project

Removal of 6 old wooden benches surrounding the pond and the installation of 5 new benches, one picnic table, and a Batchelder Pond engraved granite sign. In front of each bench, pavers will be installed to help prevent erosion.

Jordan Causer, a Life Scout of Troop 176, appeared before the Commission to present his project and request to obtain a town wetlands permit. He outlined his project of removing six old wooden benches that are currently surrounding the pond and installing five new recycled plastic benches that are four feet long, as well as a four seat picnic table. In front of each of the benches there will be pavers set with stone dust to help the ground from receding. Jordan

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

specified the benches will be bolted to sonotubes filled with concrete. This will allow for easy replacement in the future, if needed. Jordan went on to state his plan includes installing a granite sign with Batchelder Pond engraved on it. Also, he plans to have a plaque that will display the names of donors on each bench. Jordan concluded his presentation indicating the cost of each bench will be approximately \$500, and anyone wishing to purchase one as a memorial bench may do so.

The Commission:

Mr. Tilton questioned whether Mr. Causer would be installing the benches as he receives the donations. Mr. Causer replied that he must obtain all the money needed for the entire project, and then he will be able to begin the installation.

Ms. Renaud inquired whether Mr. Causer has begun any fundraising efforts. Mr. Causer responded, he has not, as he recently received the signatures needed to move forward with the project. He stated after he has final approval in January, he can then begin fundraising efforts.

Mrs. Dionne suggested instead of using stone dust, Mr. Causer should consider using pea stone or sand in-between the pavers. This would allow the water to infiltrate, whereas stone dust compacts over time.

Mrs. Woolsey commended Mr. Causer on an impressive project.

NO PUBLIC COMMENT.

MOTION: Mr. Vinther moved to recommend approval of the Eagle Scout Project at Batchelder Pond.

SECONDED: Ms. Swank

FAVOR: 7 in favor, 0 opposed

MOTION PASSED

2. One Great Gate Drive

After-the-Fact Town Wetlands Permit

Owner: William McPhee

Repared existing asphalt driveway. Dug out the existing asphalt layer in order to remove several large stones causing pavement issues. Added fill only in the location where stones were removed and smoothed out the base layer. The existing elevation, grade, and footprint of the driveway was maintained.

Mr. McPhee appeared before the Commission and stated he was unaware he needed a wetlands permit to replace the driveway. He submitted an application to replace his driveway with Public Works, and it was accepted. He was given the impression that was all he needed to complete the project. Mr. McPhee instructed Diamond Paving to remove the old asphalt and replace it with new, remaining on the same footprint, elevation and grade. Diamond Paving removed some stones and replaced with gravel to maintain the elevation. He concluded that currently there is just a base coat and the final top coat will be completed in the spring.

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

Mrs. Dionne commented she visited the site after the work had begun. She confirmed that Diamond Paving did stay within the same footprint. Once she arrived on site, the contractor did stop the work. Due to the timely nature of having to lay the base coat down by mid-November, she allowed the work to continue and advised Mr. McPhee to appear before the Commission and apply for an after-the fact Town Wetlands Permit.

Mr. Olsen commented he understands that this is an innocent mistake on behalf of the homeowner.

Mr. Ciolfi inquired whether there was an opportunity to plant some vegetation between the end of the driveway and Niles Brook. Mr. McPhee responded that he will no longer mow what is there and let it grow naturally. Mr. Tilton agreed that would be helpful.

Mr. Vinther expressed some concern with regards to use of salt on the driveway running into the Brook. He suggested Mr. McPhee attempt to keep the salt use to a minimum. He also reminded Mr. McPhee that there are rules for use of fertilizers within 50' buffer of a wetland.

Mrs. Dionne noted the property line at the right edge of the driveway is Town land. She suggested Mr. McPhee have his soil tested for proper use of fertilizers, and it can help you tailor your approach so as not over fertilize. Lawn care must follow the guidelines set forth in the NHDES Shoreland Protection Act (Env-Wq 1400). The Act prohibits the use of all fertilizers except limestone within 25 feet of the water. Twenty-five feet and beyond only, low phosphate, slow release nitrogen fertilizer or limestone may be used.

Ms. Renaud recommended Mr. McPhee have his soils tested and the results will help provide him with information about fertilizer quantity and type that is appropriate. She also inquired whether Mr. McPhee intends to apply seal coat to the surface of the driveway. Mr. McPhee stated not at this time. Ms. Raymond informed Mr. McPhee if he decides to seal coat in the future, he will need to return to the Conservation Commission and apply for a Town Wetlands Permit because he is the wetlands buffer.

NO PUBLIC COMMENT.

MOTION: Ms. Renaud moved to recommend approval for an After-the-Fact Town Wetlands Permit for driveway replacement at One Great Gate Drive with the condition that the property to the side of the buffer, closest to Niles Brook, be allowed to return to the natural vegetated state, and in the future if work is to be done to the driveway, a wetlands permit must be applied for.

SECONDED: Mr. Vinther

FAVOR: 7 in favor, 0 opposed

MOTION PASSED

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

3. 86-94 Tide Mill Rd

Owner: Hampton Tide Mill, LLC

Combine two developed lots (Map 241, Lots 2 & 17). Demolition of the existing wood frame building on Lot 2, construction of a 12,126 sq. ft. addition to the building on Lot 17 and construction of a subsurface drainage system. The new addition will be located where the wood frame building is removed and over a concrete loading area. All proposed work is greater than 50' from salt marsh edge.

Rick Salvo with Engineering Alliance and Ted Vrettos with Hampton Tide Mill, LLC appeared before the Commission. Mr. Salvo informed the Commission that the property is currently comprised of two separate parcels of land, Map 241, Lot 2 & Lot 17, and they are owned and occupied by same company. The company is closing their offices currently located in Rockport, MA and are planning to relocate their business to these properties. Mr. Salvo went on to state there are currently three existing buildings. Their plans are to combine both properties into one. They have obtained Site Plan Approval from the Planning Board earlier this month. Mr. Salvo confirmed there is an offsite wetlands to the rear of the property and there is a salt marsh that is located on the opposite side of Tide Mill Rd. They are proposing to remove an existing building, adding an addition to an existing building in an area that pavement currently exists, re-paving of an existing parking facility, and a small expansion to the parking lot. Mr. Salvo feels this new proposal has the least amount of impact. They will also be retaining the front parking entrance, as well as adding catch basins and storm water improvements. Mr. Salvo informed the Commission that the Planning Board asked the owners to complete infiltration testing, and when that is complete, they will extend the results to the Conservation Commission. Mr. Salvo concluded by confirming that there will be a total of 3,630 sq. ft. of new impacts.

The Commission:

Mrs. Dionne confirmed they did receive Site Plan approval at the beginning of the month. She noted that she is pleased to see they considered concerns about buffer impacts that were raised from previous layouts and created a new design that does not have any tidal or freshwater 50' buffer impacts.

Mr. Vinther inquired if the asphalt will be repaved, or whether they considered permeable pavers. Mr. Salvo affirmed it would be replaced with asphalt, however the impact will be offset by adding catch basins.

Mr. Ciolfi inquired about the snow storage area in the back and suggested there be a pitch in the area to the storm catch basin. Mr. Salvo confirmed that is something that could be accommodated.

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

Ms. Raymond commented until she reviews the infiltration test on that area, she questions whether there is enough separation to make the infiltration system viable. Mr. Salvo confirmed they will be providing those results to the Commission as soon as they become available.

NO PUBLIC COMMENT.

MOTION: Ms. Raymond made the motion to have Mr. Tilton, Jr. sign the Minimum Expedited Application.

SECONDED: Ms. Shaw

FAVOR: 7 in favor, 0 opposed

MOTION PASSED

4. 298 Exeter Rd

Owner: Seacoast Realty Company, LLC

Agent: SPL Development Group, LLC and Gove Environmental Services, Inc.

Construction of a 124 bedroom assisted living facility with proposed 21,218 sq. ft. forested wetland fill and 98,763 sq. ft. of permanent buffer impacts.

James Gove with Environmental Services, Inc. and Steve Paquette of SPL Development Group, LLC, and Corey Colwell of MSC Engineers appeared before the Commission. Mr. Gove provided the Commission with a brief description of the proposed project located at 298 Exeter Rd., Map/Lot 67/1. The property is 9.9 acres and located east bound by the off ramp of Route 101, Exit 13. The proposed development is an assisted living facility with 100 residents, 124 bedrooms. The project will have a total of 21,218 sq. ft. of wetlands impacts, and 98,763 sq. ft. of buffer impacts. He noted there is minimum wild life habitat on the property due to low levels of food. It is also isolated by roads and the highways, keeping large animals away. Mr. Gove included the proposed development would be serviced by the Town's existing sewer system.

Mr. Gove informed the Commission that they met with the NHDES (New Hampshire Department of Environmental Services) ACOE (Army Corps of Engineers), and EPA (Environmental Protection Agency) for a pre-application meeting on November 19, 2015. He indicated to the Commission that he provided the State with the mitigation proposal which included the preservation of the "Water Tower parcel" located northeast of Route 101 from the project site. Mr. Gove informed the Commission that the proposed mitigation parcel was deemed unacceptable due to a lack of connectivity to other conserved lands, a relatively low risk of development or impact to the stream, and lack of suitable easement holder. Mr. Gove suggested the Conservation Commission may be able to hold an easement. The State prefers not to have conservation easements held by conservation commissions. Mr. Gove was told by the Representatives of the Wetlands Bureau Commission that this particular site was not appropriate and did not meet the requirements they were looking for. They did not feel it was appropriate compensatory mitigation. Alternative mitigation through a contribution to the Aquatic Resource Management Fund was discussed and is the preferred form of compensatory mitigation for the project. The fee for 21,218 sq. ft. of direct wetland impact, as calculated by the 2015 ARM Fund calculation spreadsheet is \$102,426.08. Mr. Gove conveyed they were told to pay that amount into the ARM fund. Mr. Gove said he made it clear that the town of

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

Hampton would prefer not to see mitigation go out of the town. In this case, EPA and the Army Corps of Engineers did not consider that.

Mr. Gove conveyed to the Commission they were told by the State there has been a change in the administrative rules that will be adopted effective February 1st, 2016. He provided a change to **Env-Wt 801.03** – Determination of Type of Compensatory Mitigation Required. ***If on-site mitigation is not practicable, applicant needs to obtain a list of local mitigation projects from the municipality in which the project is proposed.***

Mr. Gove suggested if The Hampton Conservation Commission wants to try to keep mitigation dollars in town, perhaps they should produce a list of projects that are ready and appropriate for providing compensatory mitigation for wetlands being impacted. In his experience, most Commissions do not have such a list. Mr. Gove commented his client, Mr. Paquette, is caught between a rock and a hard place. The project is not in the position to financially provide compensatory in both areas. ARM fund payment is over \$100,000. They are at an impasse of what they can do locally in the Town that is financially viable with the project. Mr. Gove proposed that his client provide some grant money to the Commission to help put together a list of the potential mitigation parcels or projects for the future.

The Commission:

Mr. Tilton inquired about the ownership of the property on the north right hand side of the parcel with a building on it. Mr. Gove replied that it is Mr. Montrone, of Seacoast Crossroads Realty Trust, the same group that is the seller for this property. Mr. Tilton suggested that perhaps they could work around the mitigation problems by combining the lots and adjusting the plans. Mr. Gove indicated that is not possible, as they cannot afford to purchase both properties.

Mr. Olsen stated the proposed plan is a large impact. He also conveyed disappointment that the State and Army Corps of Engineers could not appreciate the piece of land by the water tower for mitigation.

Ms. Raymond shared that it is a great project, however this may be the wrong site for what is being proposed. There are wetland impacts as well as buffer impacts. She went on to say that with over 100,000 sq. ft. of buffer impacts, we require mitigation on the local level and have not heard any proposals for that.

Ms. Woolsey commented she does not like to see wetlands disturbed. She also stated that Mr. Montrone has always been good to the town, and inquired whether he would consider donating the water tower parcel to the Conservation Commission directly. Mr. Gove replied that during negotiations with the Montrone Group, that was not an option.

Mr. Tilton suggested that if they rotated the development on the parcel, perhaps it would be likely to save some of the wetlands. Mr. Gove said the planning took well over 9 months, and they considered every possible option and this was the best plan.

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

A discussion amongst the Commission confirmed they would prefer to see land given directly to the Town as part of mitigation.

Mr. Tilton affirmed it is a wonderful project, however it is very large in terms of the wetlands impacts. He stated he will not vote on this until there is some form of mitigation going directly to the Town.

Mrs. Dionne confirmed this is the biggest wetland fill she has seen. She made the suggestion that there are other projects impacting the wetlands in Town, perhaps they could work together and donate mitigation to the Town. Mrs. Dionne also stated it is unfortunate, and she wishes the Commission could have been a part of the conversation with the State officials or at the very least been able to supply a letter on their behalf.

Mr. Gove replied he has been doing this for 30 years, and it is large impacts for him as well. He said the location is superior for a residence such as this. He specified they are very limited, and reiterated they have spent 9 months trying to configure a way to lessen the impacts. He concluded that it does come down to money. He feels there is nothing else they can do, as they have reviewed all other options.

Ms. Renaud voiced concern for the 120,000 sq. ft. of impacts, as well as the flooding and drainage issues. She went on to say there have been payments made into the ARM fund for projects in Hampton in the past, and none of that compensation has ever come back to Hampton. There is no way she can accept over \$100,000 donated to the State for 20,000 sq. ft. of wetland impact, and the Town receive nothing for the 98,763 sq. ft. of buffer impacts.

Ms. Shaw affirmed she cannot support this. She also inquired what effect this will have on the waste water treatment plant. Mrs. Dionne replied that the Department of Public Works is currently reviewing that.

Ms. Swank voiced concern in terms of the value of wetlands, noting there are still insects, plants, birds, and water filtration system that is happening there. There is nothing in the Plan to offset what has been proposed.

Mr. Gove mentioned in the conservation ordinances there is nothing regarding compensatory mitigation locally, there are no ratios. The state has 10:1 ratio.

Mrs. Dionne responded that when they met with the Commission in August, they did discuss a ratio. Also she stated in our ordinance, we do not want to see any wetland impacts. However, the Commission was willing to consider the idea, if and only if, adequate mitigation was offered. She noted that this is the first time they have come back to the Commission since August with any type of update or mitigation option. She expressed her disappointment that they did not inform the Commission of their plans to meet with the State. She affirmed the impacts to the Town do need to be addressed.

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

Mr. Colwell suggested he attempt to set up a meeting with the State and the Commission to discuss offsite mitigation.

Mrs. Dionne read a statement from the Chairman, Mr. Diener. He stated when the developers met with the Commission as an appointment in August, it was generally agreed that our willingness to accept a project like this that proposed to fill so much of our WCD would be largely dependent on the mitigation offered. He went on to comment that it was clearly stated since the destruction of the wetland is in Hampton, the Commission would prefer mitigation, ideally in the form of a land donation that would benefit Hampton, as opposed to payment to the ARM fund which may not come back to Hampton at all. Mr. Diener expressed disappointment that the Town and the Commission were not represented in the discussions that the applicant apparently had with NHDES and the Army Corps regarding proposed mitigation. Mr. Diener concluded by expressing he has a hard time justifying and approving the filling of 2.5 acres of Town wetlands and buffers with no offsetting benefit to the Town.

Mr. Paquette stated the intent was to submit local mitigation, and he is happy to try to work towards a solution. He stated they have looked at every way to lessen the impacts, and this is the best plan they can come up with. He confirmed he is meeting with the Planning Board on January 6, 2016. He will try to see if he can devise some possible solutions by then.

Mrs. Dionne said every NHDES application requests us to render a recommendation and they provided us with a 40-day window based on when the application was filed. She confirmed the Commission's next meeting is scheduled for January 26, 2016, so we may still be in the 40 day time frame.

Ms. Swank recommends they ask for an extension with the NHDES as it will be too close to the 40 day window.

NO PUBLIC COMMENT.

MOTION: Ms. Raymond made the motion to continue this discussion at the next Conservation Commission Meeting.

SECONDED: Ms. Shaw

FAVORED: 7 in favor, 0 opposed

MOTION PASSED

V. OLD BUSINESS

1. **Update on 2016 Warrant Articles** – Mrs. Dionne told the Commission that there are two proposed warrant articles going before the Planning Board that were continued from December. The 100 ft. buffer warrant article was continued because the Town Attorney suggested we had to reorganize how the 100' buffer was addressed in the wetland ordinance. The warrant article created to designate the Taylor River Complex as a Prime Wetland was based on a study from 2006. Mrs. Dionne indicated they inquired with the NHDES if this report was still valid, and it was confirmed it was. There are still questions and confusion as to what rules apply to the designation of a prime wetland as well as the percentage of required

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

hydric soils needed to designate a prime wetland. The Commission discussed whether to further investigate, however this would need to be completed prior to January 6, 2016, and this is not enough time. Mrs. Dionne believes unless more information is provided by DES or Gove Environmental that the 2006 report will not be sufficient to move forward with this article.

2. **Land between Route 101 and North Hampton** – No Update.
3. **Ice Pond Dam Update** – Mrs. Dionne informed the Commission that the Ice Pond Dam project went out to bid for reconstruction. Cost estimate was a total of \$130,000 with \$40,000 from the Commission and \$90,000 from the town. The bids that were received exceeded the amount of funds available. Mr. Vinther inquired whether they should put out for more bids. Ms. Swank responded that it was put out to bid, and that is all the bids we received.
4. **Dune restoration at Plaice Cove** – Ms. Swank, at the request of Mr. Diener, sent an email to Alyson Eberhardt to inquire about cost estimates for the restoration of the Joe Billy Brown Park. Ms. Eberhardt responded with the idea that providing some fine sand along with different types of seagrass and shrubs in the spring would hopefully help prevent further erosion by stabilizing the area. She also said the sand cannot be anything other than fine grain sand. Ms. Swank will be taking photos of the area and will need advice of who to approach next for approval. Mrs. Dionne and Mr. Tilton, Jr. confirmed that she would need to go before the Board of Selectmen.

VI. NEW BUSINESS

1. **Ice Pond Dam Petition Warrant Article for Funding** – Mrs. Dionne read from a statement submitted by Mr. Diener, Chairman. Mr. Diener stated he was shocked when the bids for reconstruction of the Ice Pond Dam came in at more than twice the high end of the range that Stephens originally proposed three years ago. He went on to indicate the Town Manager proposed an Ice Pond Dam warrant article for 2016 for \$400,000, however the Selectmen voted 4-1 to not move that article to the Ballot. At that meeting, it was confirmed that the Commission (or someone) can still submit a petition article for the dam. At this time, Mr. Diener cannot justify an expense of over \$350,000 to replace the Ice Pond Dam. He affirmed the Commission received great support for their \$90,000 warrant article last year, but there is a significant difference between \$90,000 and \$400,000. Mr. Diener does not want to risk the good will and support from the Hampton voters that Commission has enjoyed thus far. Mr. Diener concluded the beavers are doing a great job of maintaining the dam. The Town Manager has requested the DPW install a “beaver pipe” to help ensure that the water level in the pond does not get too high under normal circumstances. Also, he noted that given the short-term stability of the dam, Mr. Diener suggested they take some time to explore other less-expensive, long-term options. After reading Mr. Diener’s statement, Mrs. Dionne inquired what the Commission’s feelings are about this. Ms. Swank expressed interest in making the money that was raised last year be non-lapsing until they are ready to pursue this issue. Ms. Raymond agreed. After a discussion of whether the bid documents and plans were read correctly or incorrectly, the Commission agreed to make the funds raised non-lapsing.

Hampton Conservation Commission
Draft Minutes
Tuesday, December 22, 2015

- 2. Approve Revised Town Wetlands Application** – Mrs. Dionne shared that in the summer The Commission revised the Town Wetlands Application Guidelines and submitted the revisions to the Planning Board, and the Planning Board is in agreement with the changes.
MOTION: Ms. Raymond made the motion to adopt the Revised Town Wetlands Application.
SECONDED: Ms. Shaw
FAVOR: 7 in favor, 0 opposed **MOTION PASSED**
- 3. Review Conservation Commission's 2015 Annual Report** – Mrs. Dionne requested if anyone has any edits or comments, please submit them to her as the Report needs to be presented to the Finance Manager by December 30th.

VII. CONSERVATION COORDINATOR AND CHAIR UPDATE

There was no update.

VIII. ADJOURN

MOTION: Ms. Raymond made the motion to adjourn at 9:20 p.m.
SECONDED: Ms. Swank
FAVOR: 7 in favor, 0 opposed
MOTION PASSED

The next meeting of the Conservation Commission will be held on January 26, 2016.

Respectfully Submitted,
Cheryl Hildreth, Recorder